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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 YIEN-KOO KING, NORTHWICH  
5 INVESTMENTS, LTD., and SOON  
6 HUAT, INC.,

7 Plaintiffs,

New York, N.Y.

8 v.

14 Civ. 7694 (JFK) (JLC)

9 ANDREW WANG, SHOU-KUNG WANG,  
10 BAO-WU TANG, JIAN BAO GALLERY  
11 ANTHONY CHOU, CHEN MEI-LIN,  
12 WEI ZHENG, YE YONG-QING, YUE  
13 DA-JIN and JOHN DOES 1-9,

14 Defendants.

15 -----x  
16 ANDREW WANG, Individually and  
17 doing business as BAO-WU TANG,  
18 and SHOU-KUNG WANG,  
19 Individually and formerly  
20 doing business as JIAN BAO  
21 GALLERY,

22 Defendants and  
23 Third-Party Plaintiffs,

24 v.

25 YIEN-KOO KING, Individually,  
KENNETH KING, RAYMOND KING,  
LYNN KING, THE PUBLIC  
ADMINISTRATOR OF THE COUNTY OF  
NEW YORK as Temporary  
Administrator to the Estate of  
Chi-Chuan Wang, Deceased; and  
Does 1 through 10,

Third-Party Defendants.

October 23, 2018  
9:49 a.m.

Before:

HON. JAMES L. COTT,  
Magistrate Judge

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APPEARANCES

SAM P. ISRAEL, P.C.

Attorneys for Plaintiffs

and individual third-party defendants

BY: SAM PETER ISRAEL

TIMOTHY SAVITSKY

KAMERMAN, UNCYK, SONIKER & KLEIN, P.C.

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BY: AKIVA MEIR COHEN

- and -

LIU & SHIELDS LLP

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Attorneys for Third-Party Defendant

The Public Administrator of the County of New York

BY: GLENN A. OPELL

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1 THE CLERK: In the matter of King v. Wang.

2 Counsel, state your name for the record.

3 MR. ISRAEL: Good morning, your Honor. Sam Israel  
4 with Timothy Savitsky for Yien-Koo King.

5 THE COURT: Good morning, gentlemen.

6 MR. COHEN: Good morning, your Honor. Akiva Cohen and  
7 Carolyn Shields for SK Wang.

8 THE COURT: Good morning.

9 And there is someone that is joining us. Do you want  
10 to state your name for the record.

11 MR. OPELL: Yes. Glenn Opell, G-l-e-n-n O-p-e-l-l,  
12 for the Public Administrator of New York County.

13 THE COURT: So, counsel, the first thing I need to  
14 bring to your attention is the following, which is in preparing  
15 for today and reviewing the amended complaint last night, I  
16 discovered in paragraph 26 of the amended complaint that  
17 Mr. C.C. Wang's collection includes something called River  
18 Bank, which was given to the Metropolitan Museum of Art, and  
19 the Metropolitan Museum of Art has established the C.C. Wang  
20 Family Collection to honor the lifetime contributions to the  
21 museum. So, my wife is the general counsel of the Metropolitan  
22 Museum. I have no idea whether that implicates anything  
23 whatsoever in this case, but I thought, as a threshold matter,  
24 I should disclose that. And if you all think that creates some  
25 issue or appearance, there are ten other magistrate judges in

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1 our court. I have no idea whether the Metropolitan Museum is  
2 in some way involved in any fashion.

3 Is that something anybody who is here knows or has a  
4 view about?

5 MR. ISRAEL: May I speak, your Honor?

6 THE COURT: Yes, Mr. Israel. Go right ahead.

7 MR. ISRAEL: It is not involved in the case, and in  
8 fact you are not the first judge who has identified the  
9 Metropolitan Museum -- as having a contact with the  
10 Metropolitan Museum and I forgot the specific capacity but  
11 maybe it was on the Board of Trustees or something. And it was  
12 not an issue in that instance and nor is it in this instance as  
13 far as plaintiff is concerned.

14 THE COURT: All right. Mr. Cohen.

15 MR. COHEN: I'm not sure that is necessarily accurate.  
16 The Met is a --

17 THE COURT: If you wouldn't mind standing.

18 MR. COHEN: I apologize. The Met is a beneficiary  
19 under I think whatever version of the propounded -- of the  
20 wills might get admitted to probate. This case is seeking to  
21 recover I believe the claim is something on the order of 60  
22 million in damages for the estate, which would have a direct  
23 financial benefit or could have a direct financial benefit to  
24 the Met.

25 THE COURT: Is the Met a named beneficiary in some

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1 fashion?

2 MR. COHEN: I believe so, but honestly, this is the  
3 first that I'm hearing of the --

4 THE COURT: I apologize for not raising this before  
5 but I didn't identify this until I was preparing for the  
6 hearing today.

7 MR. COHEN: It's fine. And from my perspective and  
8 sitting here today, I don't see it as a conflict that would  
9 cause anybody to ask for recusal, but I just don't know whether  
10 the Met is a beneficiary. And given the fact that Ms. King is  
11 suing on behalf of the estate, it might simply be a conflict  
12 that it doesn't matter whether any of us see it as a conflict  
13 that your Honor want to recuse for. It might become an issue  
14 down the road. I just don't know because this is the first --

15 THE COURT: I just don't want there to be any  
16 appearance of impropriety, and, you know, my wife obviously  
17 wouldn't personally benefit. But as the general counsel of the  
18 museum, if the museum had an interest, she would have a lot of  
19 responsibility related to that, and I always in anything that  
20 implicates the museum generally disassociate myself from it.

21 But the museum isn't a party in this lawsuit, but this  
22 lawsuit is an overlay of the probate proceeding. And I don't  
23 know anything about the probate proceeding, and I only asked my  
24 wife last night when I got home if she knew of Mr. Wang in this  
25 room, and she said of course I do. But other than that, she

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1 said the museum to her knowledge had no direct involvement in  
2 this lawsuit.

3 So, anyway, I want to do whatever you all want, but I  
4 thought as a threshold matter I should raise it.

5 Yes, Mr. Opell

6 MR. OPELL: Yes, your Honor. Off the top of my head,  
7 the only instrument of which the Met is a beneficiary under is  
8 a charitable remainder muni trust, and it is not a part of the  
9 C.C. Wang's estate. So they are an ultimate remainder  
10 beneficiary, and so I don't think that in any way implicates  
11 these proceedings here.

12 If they are somehow a beneficiary under the will, or  
13 if that trust is somehow affected by the will, I don't recall  
14 off the top of my head. And I should note that the Public  
15 Administrator, my client, is not a party in interest to the  
16 probate proceeding. We have no interest in whether the will  
17 gets probated or not. So, I just say that for my defense based  
18 on my lack of remembering it.

19 THE COURT: Well, let me just be direct with all  
20 counsel who are here. Shall we proceed before me today, or  
21 does anyone have an objection to doing so? Because if you do,  
22 we'll obviously reassign this to another judge and you will be  
23 heard promptly by somebody else.

24 MR. COHEN: No, your Honor. I think we should  
25 absolutely proceed before you today. I don't think, one way or

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1 the other, anybody has any questions about your impartiality in  
2 handling this.

3 We can -- if your Honor would like, we can go back and  
4 at whether there is any pour-over from any of the instruments  
5 into that crud that would impact the Met's financial position,  
6 and you can decide that. But I think, for everybody's sake, we  
7 should go through with the conference today either way.

8 THE COURT: Mr. Israel, you are amenable to that as  
9 well?

10 MR. ISRAEL: I am amenable. Also, just for the  
11 record, our recollection of the will comports with Mr. Opell's.  
12 We don't believe that the Met is a direct beneficiary of the  
13 will.

14 THE COURT: All right. Why don't we do this. Why  
15 don't we proceed. Why don't I ask counsel to provide me with  
16 any information you can about the Met's status as it relates to  
17 the estate, and if you think, upon further review of that, that  
18 might require me to recuse myself, do not be shy about  
19 suggesting as much, or if you think it does not, you can tell  
20 me that as well, because I don't want to do anything that I  
21 shouldn't be doing here and I want to be as transparent as  
22 possible. Obviously, I don't have anything at stake in this  
23 case, and I just want to ensure that justice is served. That's  
24 my only responsibility here.

25 All right. I think having made that record and

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1 satisfying myself at least for the moment that everyone is  
2 willing to proceed, let's proceed.

3 And I have a few things that I wanted to say by way of  
4 background. We have an ambitious agenda ahead of us today and  
5 a lot to accomplish in this hearing this morning. I want to  
6 sort of nip something in the bud, if I can, a little bit. I  
7 know that this is a very acrimonious case I think in large part  
8 because of the nature of the dispute between family members,  
9 and that, by definition, always I think is highly charged and  
10 personal and the like. And, you know, while I've only seen  
11 snippets and glimpses of some of what is at least alleged to be  
12 some of the interactions between counsel, I'm going to say  
13 something, without trying to make any judgments about any  
14 lawyers here because I expect you all to practice at the  
15 highest standards of the bar and I'm sure you will.

16 But it's very important to me in any proceeding that I  
17 preside over, especially when there is this sort of family  
18 dispute that exists here, that the lawyers do their level best  
19 not to channel what I'm going to characterize as the bitterness  
20 between the parties that inevitably exists when family members  
21 fight over money. Obviously, there is a lot of money at stake  
22 here so the stakes are high.

23 Having said that, as someone who also is involved in  
24 the criminal justice system, I always think it is important for  
25 everybody to be mindful of what is at stake and what is not at



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1 stake. For example, no one's liberty is at stake in this  
2 dispute. And I always find, after working on criminal matters,  
3 when I go back to doing civil litigation, it gives me greater  
4 perspective on all the disputes that come before the Court.

5 I don't mean to diminish in the slightest the  
6 seriousness of the lawsuit, and there are obviously very  
7 serious allegations in the lawsuit. It is a RICO case and  
8 there are fraud allegations, etc. So, we are talking about  
9 conduct that is being, you know, challenged, that I think the  
10 plaintiffs would characterize perhaps even as quasi-criminal in  
11 nature.

12 But be that as it may, what I would just suggest is  
13 going forward the lawyers do your level best to take the high  
14 road, to imagine a young, newly minted lawyer is at your side  
15 through everything that you all do in the lawsuit and you want  
16 to teach that young lawyer good habits. And one of those, I  
17 think, and what I, when I swear in new lawyers in this court,  
18 always say is the following: Lawyers have twin  
19 responsibilities. You are to be a zealous advocate for your  
20 client. By the way, the word "zealous" is not in the model  
21 rules of professional conduct as it used to be in the model  
22 code, but lawyers who have practiced awhile always say "I'm  
23 just being a zealous advocate for my client," but, in fact,  
24 that's not even the charge the model rules give you any more.

25 But be that as it may, I will characterize one role

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1 you all play is zealous advocates, and you all are certainly  
2 doing that, but you all have an equal responsibility to be an  
3 officer of the court, and that is to serve the interests of  
4 justice and to assist the court in making decisions that are  
5 fair, because that is what my responsibility is. So I'm not  
6 trying to give a homily here. I'm just trying to strike the  
7 right tone as we proceed.

8 So I think, enough said. I'm not interested in the  
9 blame game. I'm not interested in, you know, reasons for delay  
10 and all the rest, some of which was described at least in part  
11 in the correspondence to the Court. I want to move forward,  
12 but I also wanted to just kind of set the tone for you all in  
13 terms of my own perspective about litigation and the conduct of  
14 lawyers. I have no expectation other than you will be zealous  
15 advocates but you will also do so with civility and  
16 professionalism.

17 Enough said.

18 Now, the next thing I want to say preliminarily, and  
19 then we'll get right into the agenda for today, is you had your  
20 initial conference with Judge Keenan after all the various  
21 iterations up and back to the Circuit, etc., back in May, and  
22 he issued the case management order on May 16th, and you have a  
23 discovery deadline of January 4th and it is already almost the  
24 end of October. So I'm very worried here because a lot of the  
25 issues that have been raised seem to be pretty broad-based and

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1 we have, especially with respect to the attorney subpoena  
2 issue, some legal issues that I think will make it very  
3 difficult to resolve all of that today.

4 My practice in general, just so you know, is when  
5 there are discovery disputes is to call parties in and work  
6 through them and resolve them on the record in court. It's  
7 much more expeditious. It's much more in the interest of  
8 counsel for it to be done that way and, frankly, for the Court  
9 as well. But there are some issues here today that I'm not  
10 sure we are going to be able to resolve in that fashion, we're  
11 going to have to talk about that.

12 But I raise the scheduling order because it was issued  
13 in May, and October 10th is the first time I'm hearing about  
14 anything. And, again, I'm not blaming anybody, but you're all  
15 giving yourselves and the Court very little time to really kind  
16 of navigate a number of I think fairly complex issues. And you  
17 all obviously have lived with this case for many, many years  
18 and I have not, so you know it far better than I. And I always  
19 say that it's risky for litigants to come to court and have a  
20 judge in some respects somewhat arbitrarily make some  
21 decisions, because the basis for my decisions are going to be  
22 much narrower in some respects because I can't see the full  
23 field of the case. And, indeed, even with respect to the  
24 disputes before me this morning, I don't have the full set of  
25 document requests and objections and the like. I just have

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1 summaries of them. But I think they give me a flavor of what  
2 the issues are. And obviously the scope of some of them are  
3 broad, and some of the responses are very specific and some  
4 others are somewhat vague.

5 So, I think we have no choice but to literally go  
6 through what I have identified as nine different categories  
7 with respect to the documents. That's one task we have. The  
8 second task is to see where you all are with respect to the  
9 interrogatories. I know there was some supplementation, but if  
10 there are still open issues, I think we need to resolve that.  
11 I'm hopeful we can resolve all or almost all of that today.

12 With respect to the subpoena to the attorneys,  
13 obviously we need to talk about that as well. But I think at  
14 least some of that may be more complicated and a fuller record  
15 may need to be developed on that before I can be in a position  
16 to make informed rulings.

17 All right. Those are my preliminary remarks, probably  
18 longer than I anticipated, for which I apologize, but I think  
19 it was important for me to say a fair amount of what I just  
20 did. Unless anyone has any objections or wants to say anything  
21 preliminarily, I think we should just go to the list of  
22 document categories and go through them one at a time and at  
23 certain point take a break for the benefit of the court  
24 reporter, for the Court and counsel as well. Let's see how far  
25 we can get before we need a break.

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1           Mr. Israel and Mr. Cohen, anything we need to talk  
2 about preliminarily before we dive right into the particulars?

3           MR. COHEN: Only with respect to scheduling. I don't  
4 know how long this is going to run today. I was not  
5 anticipating this type of working through on specifics. To the  
6 extent that it runs for several hours, and it may, my only  
7 issue is I have to be in Nassau Supreme Court at 2 o'clock for  
8 a custody trial of which I am a party, and so that may pose a  
9 scheduling issue as we go deeper. Hopefully not --

10          THE COURT: I certainly hope we are not going to be  
11 here for that long. What time do you need to leave to be there  
12 with time to spare?

13          MR. COHEN: I need to be on a train in the 12 o'clock  
14 hour, and I haven't looked at the train schedules.

15          THE COURT: All right. I had in my own mind allocated  
16 about an hour and a half for the conference.

17          MR. COHEN: Perfect.

18          THE COURT: And I was trying to be mindful of your  
19 schedule by scheduling it at 9:45.

20          MR. COHEN: I appreciate that.

21          THE COURT: But I'm hopeful that we will be done  
22 somewhere between 11 and 11:30. That depends on how much you  
23 all talk.

24          MR. COHEN: Thank you, your Honor.

25          THE COURT: So, keep your remarks brief and we will

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1 move it along more quickly, I suppose.

2 So, why don't we get started then and go to the first  
3 category, which -- and I'm going to use the exhibits that you  
4 prepared, and I'm going to have both of them in front of me,  
5 because the one that the defendant submitted is a little bit  
6 more detailed in terms of their response. And then I think  
7 we'll just try methodically to go through them one at a time.  
8 And I suggest that counsel order this transcript, because my  
9 rulings as to these categories will be set forth here on the  
10 record as we go through them.

11 So the first category is documents related to sale,  
12 possession, display, or handling of classical Chinese art,  
13 since 2003.

14 So, who wishes to be heard and where is the dispute  
15 and what has or hasn't been produced and how can I resolve this  
16 issues? Mr. Israel.

17 MR. ISRAEL: Yes, your Honor.

18 At first, it sounds as though it might be overbroad,  
19 because we're talking about all documents relating to the sale  
20 of antiquities -- antiquity Chinese art. However, we're  
21 actually talking about a fairly contained universe of artwork.  
22 All indications are that the defendant, Miss Andrew Wang, has  
23 actually traded in estate artwork, as opposed to other artwork,  
24 in this area. So it seems like all the trades that would have  
25 been covered by this request actually go to the heart of the

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1 case and go to estate artwork that was sold, as we've alleged,  
2 sold illicitly, and therefore we haven't attempted to cabin the  
3 request any further because we believe that entire universe of  
4 documents would be probative.

5 THE COURT: Well, can I ask you a broad question,  
6 which is -- because I know there has been some reference to  
7 this in the correspondence to the Court -- what document  
8 production was made during the probate proceedings that has  
9 been incorporated by reference, if you will, into this case  
10 that you have received, and is any of what's been produced  
11 related to this category?

12 MR. ISRAEL: Some of it may have been incidentally  
13 related to this category, but this request, as it stands, was  
14 never actually propounded in the estate proceedings. And the  
15 estate proceedings was dealing with estate artwork that was in  
16 the abstract, and it was never actually dealt with as to where  
17 the paintings are, how they have been disposed of in particular  
18 by Mr. Wang, and that's why we had the request. It's not  
19 redundant of what we received in the probate proceeding.

20 THE COURT: Can I ask you, just in general, what is  
21 the scope and nature of the production you have received from  
22 the estate proceeding so I have an understanding of that?

23 MR. ISRAEL: In general, there has been a 2103  
24 proceeding in the Probate Court which deals with finding out  
25 the disposition of assets of the estate. In this case,

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1 however, dealing with Mr. Wang may be paintings that were  
2 sold -- or actually we've alleged they're paintings that were  
3 sold to third parties that ultimately found their way back to  
4 Mr. Wang, and Mr. Wang sold them overseas. In addition, there  
5 could be other transactions that might be trades between  
6 paintings. Chinese -- ancient Chinese paintings that would be  
7 also caught in this category, but none of which have we seen in  
8 the context of the probate proceedings.

9 Also, the probate proceedings have an end date. The  
10 discovery ended quite a while ago. The 2103 proceeding was  
11 taking place for years, and it's been years since anything was  
12 caught by a discovery demand that might have even conceivably  
13 fallen within this category.

14 THE COURT: What, if anything, has been produced to  
15 you in this category?

16 MR. ISRAEL: Would you mind if I defer to my  
17 colleague, Mr. Savitsky, who might have more direct knowledge  
18 about this?

19 THE COURT: That's fine.

20 MR. SAVITSKY: Your Honor, Tim Savitsky.

21 We were not counsel in the probate proceeding that is  
22 being referred to in which documents were produced related to  
23 classical Chinese artwork. So, we don't -- it was produced by  
24 Andrew as a respondent to the Public Administrator's proceeding  
25 to find out what assets of C.C. Wang were not turned over to



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1 the estate in 2003. In addition to that, there was a question  
2 over whether or not anyone held artwork that belonged to C.C.  
3 Wang that was sold in violation of a temporary restraining  
4 order which turned into a preliminary injunction in that  
5 proceeding to collect C.C. Wang's assets. That was all started  
6 in 2003.

7 So over the course of that 13-year span, there were  
8 documents produced related to requests that were propounded by  
9 the Public Administrator, but it's difficult to -- we know that  
10 these questions that we asked or demands that we propounded are  
11 not the same as the ones the Public Administrator propounded.

12 THE COURT: Well, do you have in your possession any  
13 documents related to the sale, possession, display, or handling  
14 of classical Chinese art since 2003?

15 MR. SAVITSKY: We do, your Honor.

16 THE COURT: You do. So how do we expand on what you  
17 have? What is it that you think you don't have, I guess is the  
18 better way for me to phrase that?

19 MR. SAVITSKY: What we believe happened was -- so the  
20 probably central scheme in this case is the sale by Andrew  
21 Wang, as an estate fiduciary of C.C. Wang's estate, of 98  
22 paintings -- classical paintings made before 1900 and then the  
23 reselling of them by him in China. So he is the estate  
24 fiduciary. He sells the artwork to these five people who only  
25 he knows and only he has had contact with. The Public

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1 Administrator, as co-fiduciary, sees them just on paper, on the  
2 contracts. She saw their names and approved the contract  
3 sales.

4 We would like all information related to Andrew's  
5 activities in China and also related to the sale of classical  
6 Chinese artwork. The truth is the only information that we  
7 have regarding how he has been buying and selling and  
8 displaying and auctioning this ancient Chinese artwork comes  
9 from news articles, because he's become somewhat of -- and we  
10 don't use this term loosely -- a celebrity in China. There are  
11 dozens of news articles about him and about his display of  
12 artwork, about his pronouncing himself to be the heir of C.C.  
13 Wang's Chinese art collection. And we know we have those  
14 documents because we are able to pluck them from the public  
15 record. But we don't have is Andrew's actual transaction and  
16 business activities relating to classical Chinese artwork in  
17 China.

18 THE COURT: Well, can I you ask you, though, and I  
19 know in the pleadings there are various artworks identified:  
20 Is there a finite number of artworks that fall into this  
21 category? Is it 98? Is it something else? What are we  
22 talking about?

23 MR. SAVITSKY: It would be large, but the total number  
24 of artwork that we believe C.C. Wang ever owned -- classical --  
25 we believe is about 400 pieces of Chinese art. The total

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1 number of artworks that were sold by Andrew, we believe to  
2 himself, is 98 paintings. However, together -- so the way it  
3 was discovered that the self-dealing might have happened is  
4 that Andy held an exhibition in 2009 at a -- something called  
5 the Captain Museum, and it was hosted by the Hanhai,  
6 H-a-n-h-a-i, Auction Company. And the auction company  
7 displayed these artworks. It was about 30 works. And half of  
8 them were artworks that Andrew had sold as fiduciary of the  
9 estate. And then there is the other 15, which we -- which have  
10 different stories behind them. But all of the 30 works  
11 displayed are categorized and listed as belonging to the Bao-Wu  
12 Tang Gallery, and that is a codefendant in this case. And  
13 Bao-Wu Tang is Andrew's personal art gallery.

14 So he sells artworks as fiduciary. 15 of them show up  
15 as part of his gallery in the 2009 exhibition years later along  
16 with 15 other classical Chinese artworks. what we are looking  
17 to find out is what is the entire ownership in the universe of  
18 Bao-Wu Tang's classical art collection, because we think it was  
19 stolen from C.C. Wang, and has Andrew Wang been buying and  
20 selling classical Chinese artwork personally and through Bao-Wu  
21 Tang in the past ten years.

22 THE COURT: Well, the way you just articulated in the  
23 last sentence or two is a little bit more precise than at least  
24 as the way it is described here. The way this is written is  
25 extremely broad. And I'm trying to figure out some limiting

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1 principles. I have no doubt that you are entitled to discovery  
2 in this way, in this category, but the way this is written,  
3 "documents related to sale, possession, display, or handling of  
4 classical Chinese arts since 2003," is extremely broad. And  
5 the way you just narrowed it I guess I would say to what I am  
6 going to call the inventory, if you will, at the gallery, that  
7 strikes me as a little bit more defined. Is there any reason  
8 why we can't follow through on this category, which may be the  
9 broadest of all in some respects, to pursue it in that way?

10 MR. SAVITSKY: Well, I would just say, your Honor,  
11 like Mr. Israel stated, classical Chinese artwork, artwork  
12 created before 1900, is very rare. Andrew Wang has stated in  
13 previous depositions that he does not have a large collection  
14 of artwork. So it is as if we asked for all documents related  
15 to a stamp collection of stamps before 1900. Normally, someone  
16 would not have so many documents on that. It would be a  
17 limited thing that you're seeking highly valuable stamps. So  
18 even though it is requesting all documents related to Chinese  
19 art, we don't see why his response would be so over-voluminous  
20 that it makes the request --

21 THE COURT: All right. Let me hear from Mr. Opell,  
22 since he's been standing, and then I will hear from Mr. Cohen.

23 MR. OPELL: Thank you.

24 Your Honor, there are basically two categories that  
25 the classical Chinese art falls into, and those are -- category

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1 one is the classical Chinese art that was either in C.C. Wang's  
2 possession when he died or turned over by the parties, the  
3 Kings on the one hand and Andrew and SK on other hand, to the  
4 estate. They claim that these were assets of the estate.

5 I don't think there is any question as to the identity  
6 of those paintings that were turned over or the identity of the  
7 paintings that were in C.C. Wang's possession that day. There  
8 was an inventory made, and everyone -- I think everyone has  
9 that inventory.

10 The second category are paintings of classical  
11 Chinese -- are classical Chinese paintings where ownership is  
12 disputed. In some instances, the Wang side says that they own  
13 these paintings, in other instances the Kings say that they or  
14 their corporations own these paintings, and in other instances  
15 they each say the other one stole the painting from C.C. Wang.  
16 And there is no question as to what those paintings are,  
17 because there was a very comprehensive list that was put  
18 together at the time the estate tax return was prepared of the  
19 classical Chinese artworks, and I know that everyone has that  
20 inventory.

21 So, I think we can define what these paintings are  
22 based on those inventories, and I think everyone has already  
23 been given that information.

24 THE COURT: Well, when you say everyone has been given  
25 that information, has everyone been given information related

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1 to the sale, possession, display, or handling of these finitely  
2 defined groups of paintings? That's the question.

3 MR. OPELL: No. I think with regard to the sales of  
4 the paintings, that is something that is part of discovery that  
5 probably should be exchanged. The Public Administrator has  
6 already provided some of that. Because Andrew and the Public  
7 Administrator were the fiduciaries, we were handling the sales  
8 of the artwork. A lot of information has been disclosed during  
9 the course of this discovery proceeding in the Surrogates  
10 Court. But, no, I think information such as the contracts of  
11 sale for any paintings that were sold, any of the shipping  
12 information that anyone has, financial documents related to the  
13 transactions, I think that's fair game.

14 THE COURT: And should be disclosed?

15 MR. OPELL: Yes.

16 THE COURT: And to your knowledge, has it been  
17 disclosed?

18 Is that right, Mr. Israel?

19 MR. ISRAEL: It has not been disclosed in terms of  
20 what happened after the official estate sales. So Mr. Opell is  
21 correct that there are documents with regard to the official  
22 estate sales and the Public Administrator was involved with  
23 those, and we do have those documents, some of which we have  
24 from Mr. Opell's office. However, there are no documents  
25 concerning what happened to those pointings after they were

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1 sold by the estate.

2 So they are sold. Then -- they are sold to  
3 purchasers, allegedly, who were third parties and who were  
4 overseas. And what happened to those paintings such that they  
5 ended up in Mr. Wang's possession, which there is no doubt they  
6 ended up in his possession and he was selling them or  
7 displaying them, at a minimum? We have nothing concerning  
8 that.

9 THE COURT: All right, Mr. Cohen.

10 MR. COHEN: Your Honor, very briefly.

11 To cut through this whole thing, the inventory that  
12 Mr. Opell was referencing is what's known as the Alan Appel  
13 inventory. Mr. Appel was an attorney of Bryan Cave way back in  
14 the 2003 timeframe, was retained to help -- Bryan Cave was  
15 retained for the tax purposes, and he actually went through a  
16 whole process where he gathered information from the Kings and  
17 from the Wangs about what was in the estate or what anybody  
18 claimed C.C. Wang had ever owned based on inventories that C.C.  
19 Wang had done over the years.

20 And each of the parties put down their position as to  
21 the paintings. This one belongs to a Taiwanese cousin. This  
22 one belongs to my corporation. This one belongs to a  
23 corporation that C.C. owned and that he gifted to me. This one  
24 my father bought with his own funds or borrowed funds in the  
25 1980s. That's known as the Alan Appel inventory.

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1           Here's our response to that request: "Subject to, and  
2 without waiver of the above general --

3           THE COURT: Hold on. You are reading too fast for me  
4 and I'm sure for the court reporter. Read a little slower.

5           MR. COHEN: "Subject to, and without waiver of the  
6 above general and specific objections, defendant will produce  
7 nonprivileged documents sufficient to identify any Chinese art  
8 listed on the Alan Appel inventory that was in his custody,  
9 possession, or control at any point since 2003. To the extent  
10 that that the demand seeks unspecified additional documents  
11 regarding such art, defendant stands ready to meet and confer."

12           We're more than happy to provide any documents  
13 relating to the sale or display of any art that was on the Alan  
14 Appel inventory. What we don't want to have to do, your Honor,  
15 Yien-Koo King is now the preliminary executor of the estate.  
16 She has access in her own right as of right to every piece of  
17 information that the estate has as a fiduciary of the estate.  
18 We don't want to be in a position where we have to re-turn over  
19 every document that the estate has that she already has access  
20 to.

21           With respect to the display or sale of any of those  
22 pieces after they left the estate, I know what the allegations  
23 are. Andrew denies them. He did not buy those paintings. He  
24 does not own them. He did not later resell them. So, he  
25 doesn't have any documents to turn over. There aren't going to



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1 be any documents turned over about that. But we don't object  
2 to producing whatever documents he has about those later sales.  
3 Frankly, he doesn't have any.

4 But with respect to the limitation of this to the  
5 inventory of the estate documents, that's really what we were  
6 asking for right from the outset. And the position that had  
7 been taken was, no, we want any ancient Chinese art whether it  
8 was in the estate, out of the estate. And the difficulty with  
9 that, your Honor, is part of what Andrew Wang does is he  
10 authenticates Chinese art. So they're asking for every  
11 third-party authentication that he has ever done for anybody,  
12 and that was part of what was so objectionable about this  
13 request.

14 So to the extent that they are limiting the request to  
15 documents that were part of the estate, to paintings that were  
16 part of the estate and that could conceivably be at issue in  
17 this litigation, we're more than happy to provide such  
18 documents.

19 THE COURT: So, is there a dispute? I'm a little --

20 MR. COHEN: Given the limitation, no.

21 MR. ISRAEL: There is a dispute, your Honor.

22 THE COURT: What is the dispute, then?

23 MR. ISRAEL: First of all, there is no doubt that  
24 Mr. Wang had possession of these paintings that are shown in  
25 galleries and in museums. We have photographs of that. We

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1 have declarations by him about having custody of these  
2 paintings.

3 THE COURT: But these are paintings that have what  
4 relationship to the estate?

5 MR. ISRAEL: They are owned by the estate, or they  
6 were owned by the estate.

7 THE COURT: I didn't hear Mr. Cohen say that he wasn't  
8 going to produce documents related to that.

9 MR. ISRAEL: Well, first he said one thing which is  
10 deeply troubling, which is that he has no documents concerning  
11 the disposition of these painting, which we know to be untrue  
12 because we've seen documents online that relate to the  
13 disposition of these paintings and the display of these  
14 paintings in the forms of books and articles written by  
15 Mr. Wang, where he acknowledges that he has them. Number two,  
16 photographs of him displaying the paintings. So why is it they  
17 would have no documents that concern the distribution,  
18 distribution, and sale of these paintings is really beyond me.

19 THE COURT: I have no idea.

20 MR. ISRAEL: But, secondly, your Honor, to the extent  
21 that there are sales of paintings where the money is reinvested  
22 in other paintings, other Chinese artworks from the same era,  
23 the fact of the matter is in the RICO claims, in the 1962(a),  
24 the reinvestment of profits from a pattern of racketeering  
25 activity is covered by that claim, and it's fair game in terms

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1 of discovery because if money is achieved on the sale of these  
2 paintings by using a strawman to get the paintings and then  
3 resold, then it begs the question of what happened to that  
4 money.

5 Before this all started, Mr. Wang was a very -- was,  
6 by his own account, a very modest businessman. He had no sales  
7 of Chinese -- ancient Chinese artwork. All of a sudden he has  
8 grown into a mammoth player in the field. And the way he was  
9 able to achieve that was by selling artwork from the estate.  
10 And we've got a good record of that. This isn't something that  
11 just was thrown out, you know, into the wind. We've got good  
12 evidence of that already.

13 What we need to see is the specifics of the resales,  
14 the displays of those paintings, and the reinvestment of the  
15 money that's achieved by the sale of those paintings. And that  
16 leads to another category, which I won't get into right now  
17 because I know we are not on it yet. But each of our questions  
18 that we have, each of the demands that we have are narrowly  
19 tailored in that respect -- documents that deal with the sale,  
20 the display, and so on and so forth. Now, if in fact that this  
21 didn't happen, which is kind of beguiling to even make that  
22 suggestion for the reason that I just said, then I suppose  
23 their response would be we have no documents.

24 THE COURT: Well, that's what Mr. Cohen just said.

25 MR. ISRAEL: I think he did just say that. And when

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1 he --

2 THE COURT: It is hard to -- you know, as a judge, I  
3 can't order someone to produce documents that don't exist.

4 MR. ISRAEL: I understand that.

5 THE COURT: So, I mean -- and there are legal  
6 consequences to him saying there aren't documents if he were to  
7 in fact then find documents. So, the record is going to be  
8 whatever the record is.

9 MR. ISRAEL: That's right, except for two things. I  
10 just want to make sure that when he denies it, he's denying it  
11 with respect to specific demands that we have. So the way he  
12 just characterized it isn't necessarily what we're asking for.  
13 I want to have a record of him saying we have no documents  
14 concerning the display, the sale, the distribution, or the  
15 possession of those paintings. If we have it like that and he  
16 denies it, you're absolutely right, then we'll be coming to  
17 your Honor and seeking the consequences, seeking some kind of  
18 judicial action based upon that misrepresentation, because we  
19 have documents that would show that that would be the case.  
20 But we at least need to have a record of the denial of having  
21 any documents with relation to those specific --

22 THE COURT: Can I ask you why wouldn't it be better to  
23 pursue that through requests for admission?

24 MR. ISRAEL: Because we're at the preliminary stage.  
25 Let's say they do have documents and they produced documents.

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1 Of course, that would be fodder for depositions and for further  
2 inquiry. So in the first instance we have to make those  
3 demands. If he is going to say he doesn't have them, then you  
4 are right. Then the issue will have been drawn on that. If,  
5 however, he does have documents, which I think upon reflection  
6 they might actually produce because it is a little bit hard to  
7 commit to oath that you have no documents, so they might  
8 rethink it and produce something, and if they do that, then  
9 those documents would be something that we would propound  
10 questions upon.

11 THE COURT: OK. We need to move this along. I'm a  
12 little bit confounded by how to make an attempt to resolve this  
13 given what all counsel have been saying here. This is really  
14 trying to get my arms around something that's quite amorphous  
15 in a lot of ways.

16 Yes, Mr. Cohen.

17 MR. COHEN: I think the way to resolve this is simply  
18 to limit the requests to documents relating to the art that was  
19 on that Alan Appel inventory.

20 I've said it. I'll say it again. We will happily  
21 provide all documents that we have possession, custody, and  
22 control over relating to the estate art that was in Andrew's  
23 possession, custody, and control, its sale, display --

24 THE COURT: Its resale, if ever resold?

25 MR. COHEN: Its resale if ever resold by Andrew,

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1 absolutely.

2 THE COURT: Well, let's do this. Let's say at least  
3 tentatively that is how that category will be resolved without  
4 prejudice to the plaintiff pursuing something beyond that if  
5 you believe things continue to be withheld. But why don't we  
6 characterize this as that Alan what you did call it inventory?

7 MR. COHEN: Alan Appel.

8 THE COURT: Alan Appel inventory. Let's use that as  
9 the springboard. Let's have Mr. Cohen produce to you  
10 everything he has in that regard, and if you think there is  
11 more missing, that will at least enable, it seems to me, you to  
12 be more particularized in what your follow-ups may be. OK?  
13 Let's do that. All right?

14 And let me -- Mr. Cohen, how quickly is that going to  
15 be done?

16 MR. COHEN: Well, my office is already working on  
17 pulling together the files that we have. Andrew is gathering  
18 documents from his father and from his --

19 THE COURT: I want to set deadlines here because we  
20 have a discovery schedule.

21 MR. COHEN: My only concern is -- you said Andrew is  
22 going back to China at the end of the month?

23 MS. SHIELDS: Right.

24 THE COURT: He is going to have a lot of work to do,  
25 then. This can't be 30 days. This has to be shorter than

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1 that. You have a discovery cutoff of January 4th.

2 When are you all taking depositions in this case?

3 MR. COHEN: Understood, your Honor. These requests  
4 unfortunately were not propounded until August.

5 THE COURT: But it is October now, so that is more  
6 than 60 days. You get 30 under the rules. So, we have to move  
7 this along. It is the 23rd today. Can you make production on  
8 a rolling basis and complete it by the 6th of November, two  
9 weeks?

10 MR. COHEN: We can definitely make production on a  
11 rolling basis. I would hope that we could complete it by the  
12 6th of November. Really, I have to double-check with my  
13 client.

14 THE COURT: Well, I am going to order the 6th, and if  
15 you can't do that, then you will have to seek an extension.  
16 Part of my responsibility is to set deadlines, and we're  
17 operating in a fairly tight timeframe. You know, I'm  
18 assuming -- I have not talked to Judge Keenan, but when you  
19 have a May conference and he gives you a January 4th all  
20 discovery to be completed date, I think he means it. It  
21 doesn't mean that can't in theory get extended, although we  
22 have to see where this case proceeds, and I'm not inclined to  
23 want to extend it very much, if we do, because we'll just have  
24 more arguments, and, also, it is a 2014 filed case about, you  
25 know, an estate that's been probated since 2003. So, delay is

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1 not appealing to me, and I'm disinclined to extend anything and  
2 I want to keep everybody on a short leash. And if you haven't,  
3 you need to start scheduling depositions because then you have  
4 Thanksgiving and the holiday season and all of that kind of  
5 stuff. So, this is going to be a challenge for you all. I  
6 hope you don't have other things to do in the next two months.  
7 That was a joke.

8 MR. COHEN: Understood, your Honor.

9 THE COURT: Let's moves along to number two, and maybe  
10 these categories will go a little more quickly.

11 So the next one is all documents related to each of  
12 the alleged purchasers of estate assets.

13 Let me kind of cut through this and ask Mr. Israel,  
14 what are you looking for? What does that mean? Tell me what  
15 you are looking for that you don't have.

16 MR. ISRAEL: We want to have documents that set forth  
17 the identities and the addresses of these people, and we want  
18 to have them in Chinese, because that's the only way we could  
19 track them down as opposed to in English, and we want to have  
20 the specific addresses and the other particulars that would  
21 enable us to try to contact these people and to serve discovery  
22 demands on them.

23 THE COURT: OK. Mr. Cohen, can you produce that or is  
24 there a problem?

25 MR. COHEN: To the extent that it is limited to



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1 identities, addresses and contact information, we're more than  
2 happy to provide whatever we have. The issue is just that it  
3 was all --

4 THE COURT: All documents, all communications, that's  
5 what the phrase is. By definition, it is so broad that it is  
6 very hard for a court or for an adversary in any direction to  
7 really know how to manage it. That's why I always say tell me  
8 what you really want. Because I'm sure you want more than  
9 that, but at least if that's what you're looking for most  
10 specifically at this moment in time, I direct Mr. Cohen to  
11 produce that to you, what you've just set forth in terms of the  
12 contact information in Chinese, so that you have a way to  
13 contact people. That's what you care about the most, is that  
14 right?

15 MR. ISRAEL: That is, your Honor.

16 Just one caveat to what I was saying before. In their  
17 responses, they said that they don't have the information on  
18 these people and that they don't know them. I only raise this  
19 issue now, and I appreciate your order. The reason I raise it  
20 is because we know and we presented, right in our letter,  
21 evidence that that is false. So the concern here is that we'll  
22 be right back to you again when they reiterate their comment --  
23 their statements earlier that they don't know these people and  
24 they don't have contact information for them. So I would like  
25 to air that issue as long as we are on the subject now, since

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1 we have evidence that they do know and in the past they've said  
2 they know these people, Andrew Wang has.

3 THE COURT: Yes.

4 MR. ISRAEL: And to now say that he doesn't know these  
5 people and he has no information on them is a nonstarter, and  
6 if we get that back in response to the reframed order that you  
7 have just presented, we'd be back here again in a week from  
8 now.

9 THE COURT: I have very little doubt that you are  
10 going to be back at some point in this case. But it seems to  
11 me we have to take things incrementally. So let's see what  
12 comes back to you, and if it is in some way dissatisfying,  
13 before you write me, you have to talk to Mr. Cohen. OK?

14 MR. ISRAEL: Fair enough.

15 THE COURT: And if you can't work it out, then you  
16 write me, then you come back, then we have another conference.  
17 As you well know, that's how this works. And I -- you know, I  
18 realize, you know, when I got into this, this is going to be,  
19 you know, a case that I'll say takes up probably a larger  
20 percentage of my docket bandwidth than some others. So be it.  
21 That's the nature of it. There is a lot of money at stake  
22 here. There is a lot history here. I get that.

23 But let's proceed to the third category.

24 Mr. Cohen, I want you to assume that unless I say  
25 otherwise, everything that I'm directing you to respond to

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1 and/or produce must be done no later than November 6th. OK?

2 MR. COHEN: Understood, your Honor.

3 THE COURT: OK. And earlier, if possible, and  
4 anything and everything on a rolling basis.

5 MR. COHEN: There will be no holding everything back  
6 for a grand production, your Honor.

7 THE COURT: OK. Great.

8 All right. "all communications with employees of the  
9 museum, the auction company, etc." now, that's extremely  
10 broad. So, again, what are you looking for?

11 MR. ISRAEL: Your Honor, these would be communications  
12 regarding the artwork that we claim that Mr. Wang has resold  
13 or, at a minimum, displayed at these auction houses. And,  
14 again, there is a record of this activity happening post estate  
15 sale. So it is the estate artwork that was displayed and/or  
16 sold by Mr. Wang post estate sale.

17 THE COURT: When you say "communications with  
18 employees," that's really broad. You don't mean "Would you  
19 call DHL and see if they can ship this to this place on this  
20 day" kind of communication, do you?

21 MR. ISRAEL: No. Of course not.

22 THE COURT: So what do you mean?

23 MR. ISRAEL: We mean that there is a communication  
24 with an auction house saying we have this painting and we want  
25 to display it, things like that. I am speaking in a very kind

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1 of general term. But communications that are concerning the  
2 artwork that's at issue. If he's having it with an auction  
3 house, it seems to me that he is going to be having it with the  
4 appropriate person who is responsible for the --

5 THE COURT: So you are talking about what I'll  
6 characterize as sort of transactional documents with an auction  
7 house. Is that a fair characterization?

8 MR. ISRAEL: Unless to the extent that Mr. Wang were  
9 to claim that it is not transactional because he is just  
10 displaying something. If we use "transactional" in the sense  
11 that it subsumes an event of whether it is displaying, selling,  
12 or trading artwork, then I think that would be fine.

13 THE COURT: OK.

14 MR. ISRAEL: We would accept that broader definition  
15 of transactional.

16 THE COURT: It doesn't matter whether I do. It is  
17 what Mr. Cohen thinks. Mr. Cohen.

18 MR. COHEN: Your Honor, as long as this is limited to  
19 the paintings at issue, we are more than happy to provide those  
20 documents. The issue is simply --

21 THE COURT: When you say "the paintings in issue,"  
22 let's just be precise.

23 MR. COHEN: Anything on the Alan Appel inventory, more  
24 than happy to provide any communications with any auction house  
25 relating to those paintings.

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1           THE COURT: All right. That sounds like a start. I  
2 think let's do that, and, again, let's see what you get. And  
3 if you think there is more to be had, you will tell me -- you  
4 will discuss with Mr. Cohen, you will try and particularize it,  
5 and if you can't resolve it, you will tell me.

6           MR. ISRAEL: Fair enough.

7           THE COURT: OK. All documents concerning Bao-Wu Tang.  
8 That's really broad. So, again, what do you have in mind?

9           Do you want to cut through this in some way,  
10 Mr. Cohen?

11           MR. COHEN: My apologize. There is just one issue  
12 with Bao-Wu Tang. So, this is one of those translation issues.  
13 Bao-Wu Tang -- and I'm just conveying my understanding from  
14 people who know Chinese better than me -- there are actually  
15 two Chinese characters that would be pronounced "Wu." One of  
16 them is the name Wu and one of them is the number five. C.C.  
17 Wang, the most famous painting in his collection was a painting  
18 known as "The Wu." It was a painting by the artist Wu Zhong  
19 Yuan known as the "Procession of the Taoist Immortals." And so  
20 C.C. Wang's sort of collection in his studio was known as  
21 Bao-Wu Tang, which is, I'm told, translated as the "studio of  
22 the treasured Wu," meaning where that painting is the treasured  
23 painting.

24           When it came time to do the exhibition in I believe it  
25 was the Capital Museum exhibition in 2009, the Capital Museum

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1 reached out to collectors to gather paintings that had been in  
2 C.C. Wang's collection, and so they called it the "Bao-Wu Tang  
3 Show," referring to C.C. Wang's studio. I am told there was a  
4 misprint on the invitations and on the printed material, and  
5 instead of the character for Wu, the name, they printed the  
6 character for Wu, the number, so it became the show of the  
7 studio of five treasures. At that point, Andrew Wang said,  
8 wow, that's a really cool name; I'm going to call my studio,  
9 how I refer to my professional activity, Bao-Wu Tang, Studio of  
10 the Five Treasures, using a different character Wu.

11 So when there are requests that ask for Bao-Wu Tang,  
12 there is a slight vagueness in translation issue. When you are  
13 asking for all documents relating to C.C. Wang's collection,  
14 referred to as Bao-Wu Tang, or all documents referring to how  
15 Andrew conducted his professional activities, which is  
16 essentially writing articles and building up his name  
17 recognition in the Chinese art world under the brand "Bao-Wu"  
18 with the character for five Tang, is a separate thing. So not  
19 to cut through this but --

20 THE COURT: This deals with number or name, or both?

21 MR. ISRAEL: Mr. Wang has a gallery, called Bao-Wu  
22 Tang.

23 THE COURT: That's what you were referring to?

24 MR. ISRAEL: What we want are the documents that  
25 concerned Bao-Wu Tang's handling, disposition, trading or

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1 display of the artworks we have been talking about. We have  
2 documents that show that Bao-Wu Tang, the gallery owned by  
3 Mr. Wang, has in fact displayed these paintings. They haven't  
4 been produced to us yet. We don't have them from a probate  
5 proceeding. These are the things we want -- sale, display, any  
6 other transaction that these paintings -- that took place with  
7 Bao-Wu Tang, the gallery, and anyone else, that we believe  
8 would be highly responsive, and we need to have those  
9 documents. It is not very controversial, I think.

10 THE COURT: OK. Mr. Cohen, no problem with that,  
11 right?

12 MR. COHEN: No problem with that. And just to be  
13 clear, the gallery was not the one displaying those paintings.  
14 Because of the misprint, that's where the name Bao-Wu Tang  
15 ended up on the capital Museum paraphernalia.

16 THE COURT: Who is displaying them? The gallery?

17 MR. COHEN: The Capital Museum. The gallery doesn't  
18 have a studio space. It is simply a professional -- it is a  
19 business name. It is a --

20 THE COURT: OK. But if the gallery played a role in  
21 having this artwork that we're talking about displayed, then  
22 documents related to that will be responsive to this category.

23 MR. COHEN: And what I'm saying, your Honor, is my  
24 understanding is that professional name didn't exist until  
25 after the display was set up because it was based on that

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1 misprint.

2           Regardless, we're happy to provide anything relating  
3 to the display of paintings from the Alan Appel inventory,  
4 whether it was done under Bao-Wu Tang's name, whether it was  
5 done under Andrew's name, whether it was done under some other  
6 name that Andrew had a connection with. We are more than happy  
7 to provide those documents.

8           THE COURT: I think we are clear on that.

9           All right. The next category, number five: All  
10 documents concerning interviews Andrew Wang has had with art  
11 media regarding Chinese art.

12           I don't know what a "document concerning an interview"  
13 even means. What does that mean?

14           MR. ISRAEL: It might mean things like notes, it might  
15 be preparatory notes, it might be notes that he took down after  
16 the interview, anything relating to it. I will tell you why it  
17 is important. I don't mean to point. I am sorry about that.

18           The reason why it is important is because in these  
19 interviews he discussed the very paintings we're talking about.  
20 He discussed having them, he's discussed selling them, things  
21 of that nature. So it's not unusual -- I know that if I give  
22 an interview, I have notes, I have things that reflect the  
23 contents of what I'm going to be talking about. Those things  
24 wouldn't be privileged, they would be probative. To the extent  
25 they don't exist, it is easy enough for him to say there are no



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1 responsive documents.

2 THE COURT: OK. Well, with that limitation,  
3 Mr. Cohen, will you produce any notes that Mr. Wang has about  
4 any interviews he may have had with the art media?

5 MR. COHEN: Certainly, your Honor. My only request --  
6 and I've asked for this a couple of times -- is that to the  
7 extent that they know of existing interviews that they have in  
8 mind, they tell us what those are, because it's frankly  
9 unlikely that Andrew Wang is going to be able to recall off the  
10 top of his head how many interviews he gave, which interviews  
11 he might have discussed paintings from C.C. Wang's collection.  
12 So we just ask, can you tell us which interviews that you know  
13 of that I can say to him, listen, you gave an interview to  
14 artchina.com, you know, in May of 2009. Can you please go back  
15 to your files and as you are looking for any documents relating  
16 to interviews, specifically focus on that timeframe because if  
17 you have any, there might be something in that timeframe.

18 THE COURT: Any problem identifying things that you do  
19 know about, Mr. Israel?

20 MR. ISRAEL: To the extent -- well, I have a problem  
21 with it only to the extent that it is used as a limiting  
22 principle on other interviews that may have taken place. We  
23 can supply the information that we have now. My concern is  
24 that they will just produce documents, if they have, if they  
25 produce anything, regarding that interview when there could

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1 have been a world of interviews. He has been very public about  
2 making these statements about the artwork that is at issue  
3 here.

4 THE COURT: Well, let me ask you this, Mr. Cohen. To  
5 the extent your client may have some record that he keeps of  
6 his contacts with the press, that would be something that would  
7 be responsive here.

8 MR. COHEN: Correct.

9 THE COURT: So if he has that himself, that may help  
10 him jog his own memory and won't be limiting what Mr. Israel  
11 may give you. And what Mr. Israel gives you, you know, four  
12 interviews Mr. Israel knows about, but Mr. Wang has a file of  
13 the 25 interviews he has done in the last ten years or  
14 whatever.

15 MR. COHEN: I do not intend to use it as any sort of  
16 limiting principle. I am just asking for it as an aid to allow  
17 my client to search.

18 THE COURT: OK. Mr. Opell, yes, sir.

19 MR. OPELL: And to be limited to the paintings on the  
20 Appel inventory.

21 MR. COHEN: Correct.

22 MR. ISRAEL: Just one more thing.

23 I'm sorry, your Honor. May I say something?

24 THE COURT: Yes.

25 MR. ISRAEL: In the request, we do actually list the

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1 names of the interviews. They are there. It was just pointed  
2 out to me by my colleague.

3 THE COURT: All right.

4 MR. ISRAEL: So the names are there already.

5 THE COURT: OK. So you have some information,  
6 Mr. Cohen, you can work with. But I think that category has  
7 now been resolved at least for these purposes.

8 We are on to number six.

9 "All documents concerning specifically identified  
10 auction houses believed to have auctioned artwork sold by the  
11 estate and/or stolen from the estate." So, again, what  
12 specifically are you looking for with respect to the auction  
13 houses, Mr. -- let me ask Mr. Israel first what he is looking  
14 for before you respond.

15 MR. ISRAEL: It may have an overlap with one of the  
16 requests that we already covered, and I recognize that now as  
17 we are going through it. But we want to have information on  
18 the auction houses that would have been involved in the  
19 resale --

20 THE COURT: Right. I think we talked about that  
21 already.

22 MR. ISRAEL: I think we have, your Honor.

23 THE COURT: All right. So I am going to assume that  
24 is covered by what we have already discussed.

25 Number seven. "Documents related to 12 paintings" --

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1 hooray, we're now limited to, you know, something very discrete  
2 for the first time. "Documents related to 12 paintings that  
3 are believed to have been purchased by Andrew Wang and/or  
4 Bao-Wu Tang between 2003 and 2014 with the proceeds from stolen  
5 art." I mean, embedded in that obviously is Mr. Cohen doesn't  
6 agree that it is stolen art, so you have to be careful when you  
7 phrase something that you are embedding it into your  
8 allegation.

9 MR. ISRAEL: You are right.

10 THE COURT: With that in mind, is there an  
11 understanding of what the 12 paintings are, to start? Because  
12 that would be helpful if we could define them, because you  
13 obviously know what you have in mind. If you tell Mr. Cohen  
14 what the 12 paintings are, then he can produce, presumably,  
15 documents he has related to those 12 paintings.

16 Yes, sir.

17 MR. COHEN: Your Honor, this is where we have  
18 previously requested the interviews. These are paintings that  
19 they say that Andrew has mentioned in the interviews. As to  
20 one or two of them, my client has some idea of what it might be  
21 referring to. As to the other I think ten or eleven of them,  
22 he said I don't know what this is referring to. We've asked,  
23 can you give us copies of the interviews so that --

24 THE COURT: Forget that, though. I mean, if there is  
25 a document request that says documents related to 12 paintings,

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1 it seems to me, Mr. Israel, you should identify the 12  
2 paintings.

3 MR. ISRAEL: We did, your Honor. They are in the  
4 request.

5 THE COURT: What is the problem, Mr. Cohen, if the 12  
6 paintings have been identified already? He doesn't have to  
7 guess.

8 MR. COHEN: The difficulty, your Honor, is Chinese  
9 paintings, unlike, say, Western art, where you have a painter  
10 and you have a painting name and it is, you know, the Mona Lisa  
11 is the Mona Lisa, Chinese paintings essentially are who the  
12 artist was and then a description of the image. So the same  
13 painting can be referred to as "wind blowing through bamboo" or  
14 "bamboo and rocks," and so it's sometimes hard to tell just by  
15 looking at the name --

16 THE COURT: Do you have pictures of these paintings?

17 MR. COHEN: If we have pictures --

18 THE COURT: I'm asking.

19 MR. COHEN: We do not. I don't know if they do.

20 What we've asked is can you give us the -- identify to  
21 us the interviews, give us the link to them, the transcript,  
22 whatever it is so that I can sit down with my client and say  
23 this painting that you discussed in this interview, what were  
24 you talking about.

25 THE COURT: OK. Mr. Opell, can you shed some light

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1 here?

2 MR. OPELL: Well, I would just ask the parties, aren't  
3 these paintings on the Appel inventory. They are not, OK.

4 MR. COHEN: No, which is, frankly, a separate issue,  
5 your Honor, as to the request for documents about assets that  
6 frankly are not relating to the allegations in this case on the  
7 theory that -- and this gets into the other category of  
8 documents, on financial documents, where the theory appears to  
9 be that any asset that Andrew Wang or SK Wang have owned over a  
10 15-year period is fair game for discovery because either they  
11 could have sold it to provide the funds to buy the painting --  
12 to buy these paintings in the supposed strawman sales or they  
13 could later have been acquired with the proceeds of selling off  
14 these paintings.

15 THE COURT: OK. Well, let's not get ahead of  
16 ourselves, although I would love to because we are already past  
17 the hour mark already.

18 How are we going to resolve this issue of the 12  
19 paintings, Mr. Israel? You have identified them?

20 MR. ISRAEL: Yes. Your Honor --

21 THE COURT: They are outside the Appel inventory?

22 MR. ISRAEL: Right.

23 THE COURT: I gather that is not problematic from your  
24 standpoint because you are alleging that they are connected to  
25 the claims you have in this case, which defines the scope of

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1 discovery, correct?

2 MR. ISRAEL: Yes, your Honor. And also at the  
3 appropriate time, I want to give you a case that we  
4 mentioned -- we neglected to include in our letter. I am not  
5 going to throw it at you now.

6 Just a footnote here, there is a case that we believe  
7 addresses the point that was just made by Mr. Cohen. However,  
8 the names and the artist of the painting should be sufficient  
9 for them to be able to produce documents relating to those  
10 paintings.

11 THE COURT: Can I ask you this?

12 MR. ISRAEL: Yes.

13 THE COURT: How is it that you know about these  
14 particular 12 paintings? What gives you information to  
15 identify them? Is it interviews Mr. Wang did? Is it something  
16 else? Because at the end of the day they are going to find  
17 this out, like there doesn't need to be a secret about that.  
18 And the more you can provide so that Mr. Cohen can go to  
19 Mr. Wang with specificity, the more likely it is that you are  
20 actually going to get something responsive.

21 MR. ISRAEL: Unless it is work product, and we're not  
22 ready to reveal the contents of work product at this point,  
23 because we're doing other things with sources and with  
24 documentation that is work product that has to remain private  
25 right now.

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1           However, having said that, to my mind, having the  
2 names of the paintings and the artists shouldn't be something  
3 that would preempt -- should be something that would permit  
4 somebody to say, gee, I have documents relating to that  
5 painting by that artist and produce them. It seems to me that  
6 that wouldn't be the -- that there shouldn't be any problem  
7 doing that without our disclosing work product.

8           THE COURT: Mr. Cohen, you have the identification of  
9 the 12 paintings. You will respond however you think best  
10 given what you know to date. And if it's not as complete as it  
11 can be because you need more information, then I suggest you go  
12 back to Mr. Israel and have a further conversation, and  
13 otherwise respond the best you can and we'll see where the  
14 chips fall. OK?

15           MR. COHEN: Thank you, your Honor.

16           THE COURT: All right. So now we have number eight,  
17 which is, "Documents related to a number of specific real  
18 estate purchases and sales involving Andrew Wang, Shou-Kung  
19 Wang and trust entities." So that's also very broad. A number  
20 of specific real estate purchases, were they identified, and  
21 what documents related to them in particular are you looking  
22 for?

23           MR. ISRAEL: They were identified.

24           THE COURT: OK.

25           MR. ISRAEL: And the reason we want those documents



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1 turns on -- relates to the case that I mentioned before, the  
2 identity of which I didn't put on the record, but if you permit  
3 me, I would put it on the record because it would explain why  
4 it is that --

5 THE COURT: I am happy to have you put a case on the  
6 record but I can't read it on the record --

7 MR. ISRAEL: No, of course not. I am not suggesting  
8 that, your Honor. Just for the purposes of having a complete  
9 record.

10 THE COURT: All right.

11 MR. ISRAEL: I would refer to Conopco, Inc. v. Wein,  
12 and it's not officially reported. The case number is 05 Civ.  
13 09899, and this was a decision by Magistrate Judge Katz. And  
14 not to talk to you about the specifics of the decision and the  
15 thinking, I think if you read the case, you'll understand that.  
16 But in this case the --

17 THE COURT: I'm sorry. What is the date of the  
18 decision?

19 MR. ISRAEL: Oh, I'm sorry. The date is July 23,  
20 2007.

21 THE COURT: Is it on Westlaw or Lexis?

22 MR. ISRAEL: It is in Lexis. We pulled it off Lexis.

23 THE COURT: Given us the cite, if you would.

24 MR. ISRAEL: Here it is. It is 2007 US Dist. Lexis  
25 53314, and there is also a Westlaw cite, which is 2007 WL

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2119507.

THE COURT: All right. We can take a look at it. But what does it stand for, and what are you arguing from it?

MR. ISRAEL: What we're saying is that the purchase of this property, and it is a limited number of parcels of real property, houses, took place right after the resale of this artwork. So under this case, and others -- this is just one case which is very close on point but there are other cases -- the use of the proceeds -- the sale -- the sudden acquisition of wealth becomes relevant in a case like this where you are claiming a fraudulent act took place and resulted in profits and then that profits came to be presented or manifested in the acquisition of other property or the sudden occurrence of wealth. These cases deal with it.

So the acquisition of these very expensive pieces of real property right after the sales that we're claiming took place becomes evidence of the sales themselves and the fraud that took place.

THE COURT: What in particular with respect to the real estate transactions are you looking for? What sorts of documents? Can you be more specific?

MR. ISRAEL: We want to have the financial information -- where the money came from, the money that was used to pay for the property. We want to have bank accounts, and we want to have the actual specifics of the sale. Because

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1 that will serve as evidence of the point that I'm just making.

2 THE COURT: Well, I'm not sure I'm totally on board  
3 with essentially opening Mr. Wang's entire financial books and  
4 records to you. I think that's -- we have to have some  
5 limiting principles here because that's extremely broad, and  
6 there are a lot of issues that are implicated if you make  
7 someone's books and records entirely open. I don't disagree  
8 with you -- I haven't read Judge Katz's decision. I don't  
9 disagree with the general principle. I think it is fairly  
10 commonsensical that if someone comes into a lot of money and  
11 that is implicated by other transactions, you know, as you  
12 allege occurred here as it relates to the estate and the  
13 artwork related to the estate, that your clients have an  
14 interest in, then you have a right to have some access to that.  
15 So we have to figure out what the proper limiting principles  
16 are so that you can have access to some financial information  
17 and books and records but not, you know, Mr. Wang's bank  
18 statements from 2003 to 2017 month by month. That it seems to  
19 me is too broad. On the other hand, I'm not denying you the  
20 right to have some information.

21 Now, I don't know what the right limiting principle  
22 is. We need to figure that out. Maybe Mr. Cohen has a  
23 proposal.

24 MR. COHEN: Yes, your Honor. And, frankly, my  
25 proposal is that this request we're simply not there on yet.

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1           Just looking -- I love technology -- looking at the  
2 case that Mr. Israel was citing, the court there said that the  
3 financial records being sought, there had been a sufficient  
4 preliminary showing that certain aspects of Ween's purportedly  
5 personal financial affairs are not strictly personal and were  
6 tied to the RICO allegations. There was a preliminary showing.

7           And what that showing was was Jerry Acevedo, Wang's  
8 personal and business accountant, testified that Wang's  
9 personal accounts were the source of the initial funds used to  
10 purchase products from manufacturers who plaintiff contends  
11 were defrauded. The money would be transferred -- and now I'm  
12 not quoting, I'm summarizing, the money would be transferred  
13 from the personal accounts to one of the corporate accounts.  
14 Then the money would be paid out to the manufacturers. Then  
15 when the goods were sold, the money would go into a different  
16 corporate account and then transferred back to Ween's personal  
17 accounts.

18           THE COURT: What are you suggesting that the  
19 plaintiffs need to show here in order to have --

20           MR. COHEN: Well, what they need to show is, number  
21 one, either money coming in from the Wangs to purchase these  
22 paintings. Their allegation is that these are -- one of the  
23 sales that they're interested in is a sale from before these  
24 purchases, or there were a series of sales before these  
25 purchases that they are alleging the money was used to actually

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1 fund the purchases that they are alleging were made by Andrew  
2 or SK and not by the actual buyers. Well, what they should be  
3 looking for is the estate has documents, they have bank  
4 accounts showing where the wires in to purchase those paintings  
5 came from. Trace that money back. If that money links up to  
6 one of Andrew or SK Wang's accounts, then you have a basis, you  
7 have a preliminary showing, that, hey, maybe these sales are  
8 relevant.

9 THE COURT: How can they look it up from his accounts?  
10 They wouldn't have access to that information.

11 MR. COHEN: Well, they access to the estate's bank  
12 records. The estate's bank records would show here's what this  
13 wire came from. Right? Here's the transferring account,  
14 here's where the money came in from. And then they could get  
15 discovery of those accounts.

16 Frankly, if they wanted to serve a document request on  
17 us, formally or informally, and say the bank record reflects  
18 that the money came in from the following account, give me all  
19 your documents relating to that account, that would be a  
20 totally nonobjectionable request, because there would be a  
21 specific basis. And if that is in fact one of Andrew Wang's  
22 accounts, then they're absolutely entitled to that discovery.  
23 But they can't simply say, look, we think you put money into  
24 this so we want discovery of all your financial transactions  
25 and we think you sold these and took money out so we want

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1 discovery of all of your financial purchases afterwards. And,  
2 yes, they have limited it to specific purchases, but there is  
3 no limiting principle that says that those purchases are  
4 relevant and stock purchases, art purchases, any other asset  
5 transaction is not.

6 To get to the point where they are entitled to that  
7 discovery, they need to trace the money coming in, which, when  
8 they do, my expectation, my understanding from my client, is  
9 not going to trace to any of Andrew Wang's personal accounts or  
10 SK Wang's personal accounts because he's not the buyer --  
11 they're not the buyers. But they need to do that work before  
12 they can ask us to open our personal financial books on sales  
13 of real estate that they think may possibly somehow be  
14 connected.

15 And so, your Honor, I think the limiting principle is  
16 do the work with the stuff that you're absolutely clearly  
17 entitled to first, see where that gets you, and then make your  
18 argument that what you've gotten from there entitles you to  
19 more.

20 THE COURT: Mr. Israel.

21 MR. ISRAEL: Your Honor, what we just said is  
22 inaccurate. I mean, for one thing, we have somebody -- you  
23 have to look at the series of events that took place here. You  
24 have Andrew Wang, who professes to have no money --

25 THE COURT: When you say he professes that, where did

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1 he profess it?

2 MR. ISRAEL: In deposition.

3 THE COURT: In the estate case?

4 MR. ISRAEL: Yes, that is right.

5 THE COURT: You haven't deposed him in this case?

6 MR. ISRAEL: Not in this case. In the estate case I  
7 did.

8 THE COURT: Are you planning to?

9 MR. ISRAEL: Yes.

10 THE COURT: When are you planning to do that?

11 MR. ISRAEL: As soon as they will give me a date for  
12 him. I have been trying to get a date --

13 THE COURT: We will get to that.

14 MR. ISRAEL: OK. But we have all of a sudden the sale  
15 of a house at a modest amount of money. Then we have the  
16 transactions that take place, the sale of the paintings, the  
17 resale of the paintings, and then the purchases of  
18 multimillion-dollar houses. This is the sequence of events.

19 We have no records that show where the money came from  
20 for these houses all of a sudden that he's buying, and it  
21 belies his testimony so far that he had the money on hand to do  
22 that. What we do have is an interstitial activity that  
23 involves the sale of estate artwork.

24 THE COURT: What did he say in the deposition you  
25 already took, if anything, about how he was able to make the

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1 real estate transactions that he did make?

2 MR. ISRAEL: We didn't cover that.

3 THE COURT: You didn't cover it?

4 MR. ISRAEL: No. We didn't have that information at  
5 the time, for one thing. This is going back years.

6 THE COURT: When was his deposition?

7 MR. ISRAEL: 2003, 2013, but they concerned different  
8 issues.

9 THE COURT: I see. I guess, let me say something,  
10 though, which is -- and I've experienced this in almost every  
11 case -- lawyers rightfully want to have as many documents as  
12 they can have in their hand before they take a deposition, for  
13 all the obvious reasons. But it's an imperfect system we  
14 operate in, and I promise you, you will never have all the  
15 documents you want to have in hand when you take Mr. Wang's  
16 deposition. And I would suggest we schedule it sooner rather  
17 than later. And if that deposition where you pursue this line  
18 of inquiry leads you to think that there are more documents,  
19 then it seems to me you have the right to hold that deposition  
20 open even on objection, get the documents that Mr. Wang has  
21 identified, at least in part in the deposition, and then  
22 proceed to a second round of questioning.

23 Why isn't in some respects that a more effect way than  
24 sort of a blunderbuss request that is very broad based and very  
25 hard to laser beam focus?



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1 MR. ISRAEL: A few things, your Honor. First of all,  
2 I do recognize the sensitivity of asking for financial  
3 information, and I have been on the other side of that debate  
4 many a time where I was resistant to producing financial  
5 information. This is a kind of a unique situation, though,  
6 because the financial information goes to the heart of the  
7 claims themselves. This isn't sort of like post-judgment  
8 discovery or something like that. We're not trying to find  
9 assets to seize, we're trying to find proof of elements of our  
10 claim.

11 And when I go into the deposition with Mr. Wang, what  
12 he's likely to say is, gee, I don't know, I had that money and  
13 I paid for the -- and I paid for these houses with money that I  
14 saved. And the fact of the matter -- I can almost guarantee  
15 you that's what he's going to say.

16 THE COURT: There are a lot of questions -- I can  
17 think of dozens and I'm sure you can, too -- to follow up on a  
18 statement like that.

19 MR. ISRAEL: I can, your Honor. I appreciate that.  
20 But think how much more efficient it is and how much more  
21 utility there would be to having documents that chronicles  
22 where this money came from to buy the house, that chronicles  
23 what happened to the money from the estate sales, and these  
24 documents seem to me go to the heart of the investment of  
25 racketeering income. (Continued on next page)

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1 THE COURT: But the thing is, when you talk about  
2 where money came from, bank accounts don't speak that way, if  
3 you will, right?

4 MR. ISRAEL: They do.

5 THE COURT: They do.

6 MR. ISRAEL: I'll tell you why, because if you have  
7 all of a sudden a bank account record that shows money coming  
8 in from an overseas sale of artwork, for instance, and money  
9 going out from that same account to purchase a house, you've  
10 got pretty good evidence so far that the sale took place and  
11 went to purchase the house and it's not inconceivable by any  
12 means that the bank records here, which are wire transfers,  
13 that would make that case very palpable.

14 THE COURT: Well, you know when these particular real  
15 estate transactions took place, correct?

16 MR. ISRAEL: Yes.

17 THE COURT: So why can't this request be narrowed  
18 then?

19 MR. ISRAEL: That's good.

20 THE COURT: Why can't it be extremely circumscribe  
21 then?

22 MR. ISRAEL: We can do that.

23 THE COURT: You identify when the real estate  
24 transaction is and then you work backwards from that and define  
25 very precisely very discrete financial information like not, I

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1 want the bank statements from the three months before. I don't  
2 know what the right limiting concept would be, but you'll think  
3 of it better I. That's how I think you should approach it.

4 MR. ISRAEL: That makes sense. Can I ask for one  
5 thing on that so I can set a schedule for that to give him this  
6 request and modify.

7 THE COURT: Yes.

8 MR. ISRAEL: And, again, a response to that within so  
9 many days, and we still find it's unavailing that process, then  
10 we can we can raise the issue with you again.

11 THE COURT: Yes, and maybe I'll read the case you  
12 cited between now and then.

13 MR. ISRAEL: OK.

14 Q. How much time do you need to propound additional  
15 supplementary specific requests in this regard?

16 MR. ISRAEL: Unless something else would come up, just  
17 for that issue, I would need three business days.

18 THE COURT: Let's say Friday the 26th.

19 MR. ISRAEL: We can do that. Yes, sir.

20 THE COURT: And responding by the 6th.

21 MR. COHEN: Understood.

22 THE COURT: The 6th is the magic date.

23 MR. COHEN: Understood.

24 THE COURT: You are's going to get a lot no later than  
25 the 6th and hopefully earlier. We've turned the corner. I

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1 think we're getting close. Mr. Cohen may make a train in the  
2 12-to-1 time zone.

3 No. 9. This is sort of something we started talking  
4 about a little bit and maybe there's a way to do something  
5 similar with nine as you did with eight, Mr. Israel. The topic  
6 of No. nine, for the record, is financial documents related to  
7 trust and corporate entities controlled or created by the  
8 defendants. Again, that's really broad, and I know you have  
9 something much more circumscribe and specific in mind. So  
10 maybe I can just ask you to try and define what that is with  
11 greater specificity and rephrase that set of document requests  
12 that are 119 to 122 at the moment and re-serve them more  
13 circumscribe by Friday as well.

14 Can you do that?

15 MR. ISRAEL: Yes, sir.

16 We can do that, and may I, just to be clear, we do  
17 have the trust listed in the request, and the goal here is to  
18 find out information regarding trusts that were formed to hold  
19 assets at or about the time these sales took place, but we can  
20 certainly do that by Friday as well.

21 THE COURT: Let's do that. And before we go to the  
22 interrogatories I just want to commend to you all a particular  
23 case, because I noticed at least in several of Mr. Cohen's  
24 particular responses that he said some of the requests were not  
25 reasonably calculated to lead to admissible evidence.

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1 Do you know what I'm about to say, Mr. Cohen? I  
2 suspect you don't.

3 MR. COHEN: I have a sense, your Honor.

4 THE COURT: Well, that is no longer the law. As of  
5 the amendments to the Federal Rules in 2015, the rules have  
6 changed. That is no longer the standard. So don't cite it  
7 anymore. OK?

8 It also sounds to me, having not seen the full-blown  
9 set of objections and responses to the document requests that  
10 you probably didn't comply with the revised Rule 34 and I'm  
11 going to commend to you a case to you written by Judge Peck  
12 called *Fischer v. Forrest*, also unpublished. The WL cite is  
13 2017 WL 773694. It's from February 28, 2017. The Docket No.  
14 is 14 Civ. 1304, and this is another one of Judge Peck's  
15 wake-up calls to the bar decisions which he was famous for  
16 issuing, but it's very much focused on document responses,  
17 requests and responses and objections. So I commend it to you  
18 because my suspicion is, based on the markup that I got in  
19 Document No. 102-1, that it wasn't perfectly comporting with  
20 the revised rules, but we'll let that go in the interest of  
21 time.

22 Where are we on the interrogatories, gentlemen?

23 MR. COHEN: We have served a supplemental response,  
24 supplementing Mr. Wang's interrogatory responses with respect  
25 to the interrogatories that are now concededly separate

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1 interrogatories asking for, for example, information regarding  
2 business associates of the buyers or their employer or their  
3 past employers. He does not have that information. He  
4 continues to diligently search for it, but we've supplemented  
5 the interrogatories to provide that information rather than  
6 objecting to it on Local Rule 33.3 grounds when it was first  
7 drafted as sort of, provide the following information about the  
8 buyers.

9 We continue to object to requests that ask, for  
10 example, for a list of paintings that were sold.

11 THE COURT: Well, how would you suggest that be  
12 provided otherwise, because sometimes interrogatories are the  
13 most convenient and useful way to provide information rather  
14 than something else? Why can't it be provided through a list  
15 of some kind?

16 MR. COHEN: Well, first of all, your Honor, to the  
17 extent that they requested -- and they've already requested  
18 documents relating to any of the Chinese art on the Alan Appel  
19 that was displayed or sold, we're providing that. We're happy  
20 to provide it. The local rule doesn't allow for such  
21 interrogatories. If your Honor wants to direct that --

22 THE COURT: Well, no, I disagree with that. Because I  
23 think the local rule sort of -- it focuses on sort of a series  
24 of transactions, if you will. At the beginning it's supposed  
25 to be very narrow, what you provide in response to

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1 interrogatories, but once there is a certain inefficiency to  
2 providing information some way other than interrogatories, then  
3 my reading of Local Rule 33.3. allows for it. And there's  
4 plenty of case law to suggest that if an interrogatory is the  
5 most efficient way to produce information then you should use  
6 it. Providing a list is certainly something you don't want  
7 someone to have to do in a deposition, for example. If you're  
8 producing a document that has the same information that the  
9 answer to the interrogatory will, then you've done it and you  
10 can just cite to that fact in your response to the  
11 interrogatory.

12 What I'm trying to do here to cut through it is to  
13 figure out, are there any open issues with respect to the  
14 interrogatories. You've just said what you supplemented. Let  
15 me ask Mr. Israel, what hasn't been done with respect to the  
16 interrogatories that you still want to be press forward with in  
17 front of the Court at this moment, if anything?

18 MR. ISRAEL: May I ask Mr. Savitsky to address this?

19 THE COURT: Sure. So what's open that needs me to  
20 resolved, if anything, today?

21 MR. SAVITSKY: Well, the first issue is that we are  
22 seeking documents related to the storage of artwork.

23 THE COURT: We're not talking about documents.

24 MR. SAVITSKY: I'm sorry. Locations.

25 THE COURT: We're talking about interrogatory

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1 responses. What are you looking for in an interrogatory?

2 MR. SAVITSKY: The location of where Mr. Wang stores  
3 Bao-Wu Tang artwork and stores his artwork. That was an issue  
4 of contention. Our position is that in seeking to get  
5 evidence, we want to know where Mr. Wang has been storing  
6 artwork and we believe that these self-dealt paintings would  
7 be --

8 THE COURT: I'm going to sort of ride herd over you  
9 all now. It's 11:15, we've been going an hour and a half.  
10 Mr. Cohen has to get to Nassau County. We got to move this  
11 quickly. OK? You want information about where Mr. Wang stores  
12 art?

13 MR. SAVITSKY: Yes, yes, the location.

14 THE COURT: What's the problem with that?

15 MR. COHEN: The only problem, your Honor, to the  
16 extent it's broader than the Alan Appel inventory, you said you  
17 want to limit it to Alan Appel inventory.

18 THE COURT: Why should it be broader?

19 MR. SAVITSKY: Because this is a RICO enterprise and  
20 we believe that the self-dealt artwork is also in proposed in  
21 those locations.

22 THE COURT: Produce it with respect to the inventory.  
23 If you want something beyond that, you'll tell me after that.

24 MR. SAVITSKY: The other issue we had, your Honor, we  
25 wanted information on the five straw men. They were initially



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1 named as codefendants. We couldn't find any information on  
2 them, other than what was provided to us in the contracts. So  
3 one of the interrogatories asks for their English names, their  
4 Chinese names, their last known addresses, and their last known  
5 place of employment.

6 THE COURT: Stop there.

7 Any problem producing that?

8 MR. COHEN: No, to the extent that Mr. Wang is aware  
9 of it.

10 THE COURT: If he doesn't know he doesn't know, but in  
11 the case of the interrogatory, we will not answer it.

12 MR. COHEN: We did.

13 THE COURT: What did you say? Did you give this  
14 information?

15 MR. COHEN: We provided whatever information he had  
16 and he said this is the information he has and he's continuing  
17 to diligently search.

18 THE COURT: What are you going to do?

19 MR. SAVITSKY: Your Honor, we had an issue with this  
20 the response. What he has said in the sworn interrogatories,  
21 he doesn't have in information because there was an  
22 intermediary who arranged the purchases and had the direct  
23 contact with the buyers, the Zie Fu, and he's deceased. So we  
24 can't get the information. He only gives the address Mr. Fu,  
25 the middleman who has the contact. The problem we have is when

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1 Andrew gave his sworn deposition in 2013, he was asked about  
2 each of the five buyers and he said Mr. Anthony Chou is his  
3 friend from Beijing or Shanghai. He's not sure. He talks  
4 about their past work experiences, one of them was a collector  
5 of cars. We asked him about another one of the straw men, Yue  
6 Da-Jin and he said, oh, we ran in the same circle and we had a  
7 mutual friend, Mr. Zhou, who got us together for the sale.

8 THE COURT: So your point is that because he knows  
9 these people, he should know where they live.

10 MR. SAVITSKY: Yes, and my point is that his sworn  
11 interrogatory is completely contradicted by the deposition  
12 testimony given.

13 THE COURT: Good evidence for you then is it? Why  
14 didn't you stop while you were ahead? Why isn't that a good  
15 thing for you? You have your bad guy contradicting themselves  
16 all over the place. Why do you keep pushing the issue? It  
17 sounds to me like the record on that point is good for you,  
18 isn't it?

19 MR. SAVITSKY: It is good for us, your Honor.

20 THE COURT: So then stop while you're ahead.

21 MR. SAVITSKY: We're just frustrated by what we find a  
22 pattern of.

23 THE COURT: I don't want to hear that sort of thing.  
24 I said that at the beginning. I'm just trying to deal with  
25 what we need to deal with.

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1 Anything else interrogatory-wise we need to address  
2 today?

3 MR. SAVITSKY: Your Honor, just that we're proceeding  
4 on a ruling asking for a list of questions is -- I'm sorry, the  
5 list of locations or witnesses in the interrogatories, because  
6 there's about 15. I just want to clarify if that ruling  
7 extends.

8 THE COURT: My ruling is, Mr. Cohen, that I have no  
9 problem if indeed there is case law, I'll cite you one because  
10 I did some research, decision of Judge Francis' of a few years  
11 ago of in re Weatherford International Security Litigation,  
12 2013 WL 5788680, Southern District, October 28, 2013, 11 Civ.  
13 1646. It's a Judge Kaplan case. It's a Judge Francis  
14 decision. He talks about interrogatories sometimes being a  
15 more practical vehicle for providing information that is  
16 entirely consistent with Local Rule 33.3, and I would say in  
17 general the kinds of lists that I think are being talked about,  
18 it's most efficient to the extent Mr. Wang has the information  
19 to just respond by providing it in the interrogatories.

20 Is that sufficient guidance?

21 MR. SAVITSKY: It is, your Honor.

22 THE COURT: OK.

23 MR. COHEN: Your Honor did not need the cite. The  
24 ruling is absolutely fine. Thank you, your Honor.

25 THE COURT: OK. I think we have now closed the loop

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1 on all the open document requests and interrogatories for the  
2 moment without prejudice to the parties coming back for further  
3 rulings if necessary.

4 MR. ISRAEL: I'm sorry, your Honor, except with  
5 respect to the attorney.

6 THE COURT: We're not there yet.

7 MR. ISRAEL: I just wanted to.

8 THE COURT: That's the last thing we're going to do.

9 MR. COHEN: Your Honor, unfortunately I just need to  
10 clarify something. To the extent that there are certain  
11 interrogatories that are not limited -- that are relating to  
12 assets or art but not expressly limited to the Alan Appel  
13 inventory, that limitation is carried throughout.

14 THE COURT: I would say yes for the time being, but I  
15 don't want you to get too comfortable with that, Mr. Cohen,  
16 because Mr. Israel and his colleague may convince me down the  
17 road that that was too limiting, but I want the record to be  
18 more fully developed so they can make a better judgment about  
19 that. I'm, frankly, not in a position to be able to know with  
20 certainty how far beyond that we should be going now.

21 MR. COHEN: Understood.

22 THE COURT: All right. So now we're left with the  
23 subpoena to attorneys issue. This is a complicated issue that  
24 I don't think I can resolve on the correspondence that's been  
25 submitted to me. It does seem to me that Mr. Cohen suggested

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1 in his letter that there was a willingness to provide some  
2 information in response to the subpoenas. So why don't we talk  
3 about what you are willing to do and then let's talk about what  
4 else Mr. Israel wants that you're not willing to do and let's  
5 figure out how we navigate all of that.

6 MR. COHEN: So, your Honor, with respect to the  
7 subpoenas that were sent to the attorneys on the various  
8 transactions, we're willing to allow them to provide whatever  
9 documents are in their possession, custody, or control,  
10 regarding the source or the disposition of funds that were used  
11 to pay for these real estate transactions or obtained from  
12 these real estate transactions, which it seems to me is  
13 everything that Mr. Israel was asking for.

14 The difficulty --

15 THE COURT: Well, hold on, before you talk about the  
16 difficulty, but those lawyers have not yet made that  
17 production.

18 MR. ISRAEL: They have not yet made that production,  
19 your Honor.

20 THE COURT: But hold on a second. So Mr. Israel at a  
21 minimum, shouldn't you take that production?

22 MR. ISRAEL: Oh, yes.

23 THE COURT: So when's that production going to be  
24 made? You're coordinating with these attorneys.

25 MR. COHEN: We've told the attorneys to hold off

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1 pending order of the Court on the motion. So we do believe  
2 that those documents are irrelevant and objectionable and we  
3 have problems with it. We have offered to make that production  
4 to resolve the issue and to simply move forward and that would  
5 be the production and the attorneys wouldn't have to appear for  
6 deposition.

7 THE COURT: We're going to take this one step at a  
8 time. Let me say in general, and I'll leave Mr. Klein to the  
9 side, because I think it's a different category, all right?  
10 But with respect to the other five, it seems to me since no  
11 depositions have yet been taken in this case; is that correct?

12 MR. ISRAEL: That's right.

13 THE COURT: The lawyers' depositions, if they're  
14 needed shouldn't be taken until I can be convinced that they  
15 have unique information that hasn't otherwise been developed  
16 during the course of deposition discovery and I would hope,  
17 Mr. Israel that you would agree with that.

18 MR. ISRAEL: I do agree, your Honor, with the one  
19 exception we put aside for now. Mr. Klein.

20 THE COURT: Klein.

21 MR. ISRAEL: Klein.

22 But you're absolutely right and we had no interest in  
23 going forward with these depositions and we're going to tell  
24 the counsel who we're seeking documents from that it would  
25 probably be unnecessary to go forward with these depositions.

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1 We just want the documents.

2 THE COURT: So what do you want beyond what Mr. Cohen  
3 has said that these lawyers are willing to produce? Can you  
4 particularize it.

5 MR. ISRAEL: Well, that's it. What was just said was  
6 what we want.

7 THE COURT: So then I think except as to Mr. Klein,  
8 we've resolved the subpoenas at least for the moment if,  
9 Mr. Cohen, the production that you've described is made, and I  
10 would again say that it should be made by November 6 at the  
11 latest.

12 MR. COHEN: And we will so direct those attorneys that  
13 this is the universe of documents that those subpoenas are  
14 limited to, and they need to make that production by  
15 November 1, and that way hopefully we'll be able to make sure  
16 that they get in by November 6.

17 THE COURT: That's fine.

18 And you heard Mr. Israel say on the record that he has  
19 no intention at the present time for any depositions to be  
20 taken. So I think once the production is made, the subpoena  
21 can be deemed satisfied and then if there's some follow-up, you  
22 all will meet and confer about it and deal with it.

23 That's good. Now, we're left with Mr. Klein.

24 I cannot make rulings on the crime-fraud exception and  
25 the basis for that on the record in front of me. And so what I

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1 think -- and it seems to me unlike the other attorneys, at  
2 least as I understand it from the allegations that Mr. Israel  
3 has made in the pleadings here that Mr. Klein had more direct  
4 involvement in the alleged straw man scenarios. So that makes  
5 him more potentially of a fact witness, which means his  
6 deposition is more likely to be needed, although, I would again  
7 suggest that it should come at the end after other depositions  
8 have been taken so that you can best articulate why you need it  
9 and how it might be limited, so how it would minimally infringe  
10 on attorney-client-type issues, rather than if it were taken in  
11 the next to 30 days, I can only imagine that that could wreak  
12 havoc.

13           So what's your best proposal as to how we deal with  
14 the Klein subpoena and potential deposition, understanding that  
15 my leanings are that I think he probably will need to be  
16 deposed? But I also think that probably shouldn't be  
17 determined definitively until other deposition discovery has  
18 taken place and Mr. Klein has made some limited production,  
19 which I understand from Mr. Cohen he's willing to make,  
20 presumably with a privilege log so that the record is better  
21 developed, so that if you're actually going to have to make a  
22 motion to compel of some kind, I'm not sure it's something we  
23 can deal with at a conference. I think it's something we'll  
24 have to deal with in writing and potentially with *in camera*  
25 submissions, although I don't want to get too far ahead or



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1 project, but something like this more likely lends itself to  
2 that scenario than the other attorneys. That's my preliminary  
3 reaction, not a ruling, but you all tell me what you think.

4 MR. ISRAEL: Your Honor, if you were actually to order  
5 that, what you just said, bearing in mind that we don't have  
6 dates yet for briefs, to the extent it's necessary for our --  
7 for to us prove to you or to show that you we do need  
8 Mr. Klein's deposition, I would agree with what you just said,  
9 namely to do depositions of other fact witnesses first, have  
10 the limited production with the privilege log that omits, for  
11 now, privilege communications, allow us then to brief the issue  
12 of whether or not we should be entitled to pierce the privilege  
13 based upon the crime-fraud exception or some other theory, and  
14 present it with those arguments after we receive the  
15 non-privileged production. I think that makes sense.

16 The only thing I would ask for is to put some dates to  
17 it so that we have a framework to go forward on this basis so  
18 we take a deposition by X-date of -- I'm sorry, not that we  
19 would take his deposition. We received the production of the  
20 Klein documents. If, as you've already ruled on the date that  
21 you indicated, that those would accompany the other  
22 productions, and that after that -- and we proceed at pace with  
23 other depositions and then when we near the end of those other  
24 depositions we make our application to you to do the deposition  
25 of Mr. Klein and put in our best case for why we should be

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1 allowed to proceed with that.

2 Does that make sense, what I just said?

3 THE COURT: I think so, because I think you're sort of  
4 following what I proposed in general terms.

5 MR. ISRAEL: I am.

6 THE COURT: Mr. Cohen.

7 MR. COHEN: Your Honor, the only thing I would suggest  
8 is that some of these requests be limited at the outset. So  
9 for example, Demand No 6 of the subpoena to Mr. Klein is all  
10 documents related to Brown Raysman Millstein Felder & Steiner,  
11 LLP, concerning estate assets of Andrew Wang, PA, or the  
12 purchasers. Brown Raysman was litigation counsel to Mr. Wang  
13 from 2003 until it merged with Thelan in 2006.

14 THE COURT: I think that's very broad. I think  
15 Mr. Israel has more particular things in mind with respect to  
16 Mr. Klein, and so at least as the letter he wrote in response  
17 to your letter to me says, I think the way the letter and I'm  
18 not going to read it into the record now, but Mr. Israel's  
19 October 17 letter articulated why he thinks Mr. Klein is in a  
20 separate category.

21 MR. COHEN: Yes, and to the extent the subpoena and  
22 the document requests can be limited to the subject of these  
23 alleged strawman sales --

24 THE COURT: Why don't we start with that.

25 MR. COHEN: We're in a workable situation.

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1 THE COURT: Why don't we start with that, because I  
2 think that goes to the heart of what implicates Mr. Klein as a  
3 fact witness here.

4 MR. COHEN: Yes.

5 THE COURT: I also think it's very likely he's going  
6 to be deposed. So before there's motion practice even about  
7 that, I really think you all should consider, and I direct you  
8 to meet and confer before we set some briefing schedule,  
9 because what may happen is -- and I actually think the better  
10 way to develop the record may be that his deposition be taken,  
11 that you ask certain questions, Mr. Israel, of Mr. Klein that  
12 Mr. Cohen or whoever is representing him direct him not to  
13 answer on privilege grounds, and then we have an actual record  
14 of the particular questions and information, rather than even  
15 categories. Then it's easier for me to rule and say, those ten  
16 questions should be answered and those ten questions shouldn't  
17 be answered or whatever. I really think that would be the best  
18 way in this case to resolve that.

19 So I'm not sure I want to set a date for a briefing  
20 schedule. I think we need to figure out when these depositions  
21 are going to be taking place, and I think you should all plan  
22 on Mr. Klein's deposition taking place with the understanding  
23 that some questions won't be answered, consistent with a  
24 privilege log and consistent with his indication implication of  
25 privilege, and then you'll make a judgment too, because if he

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1 invokes privilege 20 times, you may think strategically, I'm  
2 going to ask about six of them, because that's what I care  
3 about most and I might have a better shot at that time instead  
4 of going for it all. That's harder to do sometimes. It  
5 depends, of course, on what the questions.

6 But it seems to me what I should say is the following:  
7 Mr. Klein should respond to his subpoena by November 6. It's  
8 limited to the straw man issue, if you will. If he is going to  
9 invoke privilege and not produce certain documents, he needs to  
10 also produce a privilege log at that time, and then you should  
11 advise him that he's going to be deposed sometime between  
12 November 6 and January 4, probably toward the end of the  
13 deposition discovery, which means somewhere in mid-December, I  
14 would guess and that the deposition should proceed and that if  
15 there are answers not provided due to privilege and you all  
16 can't work it out, then you'll send me the transcript and make  
17 a motion and if we go past January 4, which we probably would,  
18 and I rule that some of the questions should be answered, then  
19 his deposition will be reconvened shortly after that period.  
20 That's what I suggest.

21 OK?

22 MR. ISRAEL: Understood, your Honor.

23 THE COURT: Anything you want to be heard further on  
24 that?

25 MR. COHEN: One small bit of housekeeping on that.

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1 With respect to Mr. Klein's deposition, I assume that too would  
2 be limited in scope to the areas of the alleged straw man  
3 sales?

4 THE COURT: It's going to be limited to that effect  
5 unless and until I hear otherwise. Let me be clear, that  
6 doesn't mean that there are 30 questions that Mr. Israel is  
7 going to ask on the 1st or 2nd before he gets there. I mean,  
8 when he asks, how long have you known Mr. Wang, you can't  
9 object, right?

10 MR. COHEN: Understood.

11 THE COURT: Is that related to the straw man? There  
12 has to be a certain allowance for preliminaries, if you will.  
13 Can he ask about representing Mr. Wang in --

14 MR. COHEN: In probate.

15 THE COURT: In something completely unrelated to the  
16 claims and defenses of the lawsuit as the rule provides, the  
17 answer is no. So as I understand it, the way this has been  
18 articulated, that the claims that Mr. Israel thinks Mr. Klein  
19 has information about are the claims related to this straw man  
20 set of allegations. So that defines the scope, but I can  
21 imagine you all calling me in the middle of that deposition  
22 sometime in December and you arguing that somehow he's gone  
23 outside the scope. If it comes to that, so be it, and I'll  
24 make my best judgment based on what you're going to have to  
25 give him a little bit of latitude and remember the time of the

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1 deposition that I said that because you want to pick and choose  
2 when you call a judge from a deposition room. But it would not  
3 shock me if you all called me from a deposition room, and  
4 hopefully it I'll be in a settlement conference and not be able  
5 to speak to you. By the time I get back you will have worked  
6 it out somehow. That's always what happen when lawyers call  
7 from a deposition and I'm not available, but I don't mean to  
8 make light of it. If it comes to that, we'll deal with that.

9 OK?

10 MR. COHEN: Thank you, your Honor.

11 THE COURT: I think we've covered everything, have we  
12 not?

13 MR. ISRAEL: I think we have, your Honor.

14 THE COURT: Mr. Cohen, anything else?

15 MR. COHEN: Nothing further your Honor.

16 THE COURT: Let me say one more thing. I know we're  
17 probably speaking into the wind here, but as a magistrate judge  
18 I am duty-bound to raise this at this conference, and that is,  
19 I don't know if you all have given any thought to try to  
20 resolve this case, but if you haven't and if you think that the  
21 Court could in some way be helpful in that regard, I would  
22 strongly encourage you to consider that, because at the end of  
23 the day we have a lot of money at stake and people have risks  
24 on both sides and the sooner one gets to the settlement table  
25 sometimes the better. And the longer you wait, the harder it

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1 is.

2 Now, this has been going on since 2003, so it's not  
3 exactly a new case. I don't know what efforts, if any, have  
4 ever been made in that regard, but I am certainly happy to  
5 offer my services. If you think it would be helpful, perhaps  
6 this is a better case for a private mediator. I don't know.  
7 I'm certainly available, and even available to provide an  
8 all-day settlement conference, if we plan for it in advance.  
9 It may be not something that's even remotely feasible. I have  
10 no idea. But I always offer that and certainly invite you all.

11 And what I also know is that parties are often  
12 reluctant to be the first to say, sure, because then there's  
13 the issue of showing weakness and all of that. I am not a fan  
14 or believer in that. I think both sides in this case have an  
15 equal interest in wanting to get to a settlement table. If  
16 there was any way to do it, but if there's \$60 million at stake  
17 and one side wants 59 and is only going to offer the other 1,  
18 it's probably not worthwhile. You all know best and have  
19 talked to your clients. But I would encourage you to go back  
20 to your clients and say, we just spent a lovely morning with  
21 Magistrate Judge Cott. He offered settlement services. If  
22 you're interested, what do you think?

23 Your clients may be very hardened in their positions  
24 and I leave it to your professional judgment as to whether  
25 there's any value to doing it. I certainly don't want to waste

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1 your time, your clients' time, or my time, for that matter, if  
2 it's a foolish enterprise. I also wants you to think seriously  
3 about, because all that's going to happen in this case for the  
4 next year is further skirmishes, more motion practice  
5 potentially before me and inevitably before Judge Keenan, who  
6 you've probably worn-out with motion practice already and  
7 potentially and eventually I assume a trial in this case and  
8 that's probably a long way off.

9 So, as I would like to suggest to the parties, there  
10 are four main reasons for settlement. I'll tell you my four  
11 main reasons. You can share them with my clients. I'll call  
12 them the 4 C's. And they are control, certainty, cost, and  
13 closure. And those words sort of speak for themselves.

14 So I leave you to think about this, talk to your  
15 clients, and even talk to each other as officers of the Court.  
16 Remember what the judge said, any interest, any interest? And  
17 if your clients don't want to, that's totally fine, but I also  
18 wanted to make sure you knew that that was something you could  
19 take advantage of if you wished to.

20 MR. ISRAEL: Thank you.

21 MR. COHEN: Have a good day, everybody.

22 MR. ISRAEL: Thank you, your Honor.

23 (Adjourned)  
24  
25